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IN THE

Supreme Court of the United States

OCTOBER TERM, 1928. ORIGINAL No. 5

STATE OF NEW JERSEY, Plaintiff,

v.

STATE OF NEW YORK and THE CITY OF NEW YORK, Defendants.

NOTICE, MOTION FOR LEAVE TO PRESENT INTERVENING PETITION, AND PETITION FOR LEAVE TO INTERVENE.

COMMONWEALTH OF PENNSYLVANIA,
Petitioner.

By CYRUS E. WOODS,
Attorney General.

OWEN J. ROBERTS,
Special Assistant to the Attorney General.

Solicitors for Petitioner.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1928. ORIGINAL NO. 17.

State of New Jersey, Plaintiff,

v.

State of New York and The City of New York, Defendants.

NOTICE.

To Hon. William A. Stevens, Attorney General of the State of New Jersey;

Hon. Duane E. Minard, Assistant Attorney General of the State of New Jersey,

Solicitors for Plaintiff;

Hon. Hamilton Ward, Attorney General of the State of New York, Solicitor for the Defendant, State of New York;

Hon. Arthur J. W. Hilly, Corporation Counsel, Solicitor for the Defendant, The City of New York.

SIRS:—Please take notice that on Monday, December 9, 1929, at the opening of Court on said day, or as

soon thereafter as counsel can be heard, the Commonwealth of Pennsylvania will present its motion for leave to file its intervening petition praying that it be permitted to intervene in the above entitled cause and to participate in any and all proceedings and hearings before the Special Master upon the reference order of , 1929, and also in any and all proceedings and hearings before this Court upon the report of the Special Master.

THE COMMONWEALTH OF PENNSYLVANIA,
PETITIONER,

By

CYRUS E. WOODS,
Attorney General.

OWEN J. ROBERTS,
Special Assistant to the Attorney General.

Solicitors for Petitioner.

NOVEMBER 26TH, 1929.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1928. ORIGINAL NO. 17.

State of New Jersey, Plaintiff,

v.

State of New York and The City of New York, Defendants.

MOTION FOR LEAVE TO PRESENT INTERVENING PETITION.

Now comes the Commonwealth of Pennsylvania, by its Attorney General, and respectfully moves this honorable Court for leave to present and file its petition praying that it may be permitted to intervene in the above entitled cause of action and to participate in any and all proceedings and hearings before the Special Master upon the reference order of

1929, and also in any and all proceedings and hearings before this Court upon the report of the Special Master.

COMMONWEALTH OF PENNSYLVANIA,
PETITIONER,

By

CYRUS E. WOODS,
Attorney General,

OWEN J. ROBERTS,
Special Assistant to the Attorney General.

Solicitors for Petitioner.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1928. ORIGINAL NO. 17.

State of New Jersey, Plaintiff,

v.

State of New York and The City of New York, Defendants.

PETITION FOR LEAVE TO INTERVENE.

TO THE HONORABLE THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The petition of the Commonwealth of Pennsylvania, by its Attorney General, respectfully represents:

1. Your petitioner, the Commonwealth of Pennsylvania, is one of the original States of the United States of America, having its capital at the City of Harrisburg, Dauphin County, Pennsylvania. Your petitioner is charged as *parens patriae* with the duty

of promoting and safeguarding the interests and the welfare of its citizens and the protection of property within its territorial limits; and in particular those citizens living in or having interests in and that property situated in the basin and watershed area of the Delaware River and its several Pennsylvania tributaries.

2. The Delaware River is an interstate stream rising in the highlands of New York and Pennsylvania and constituting the boundary between the State of New York and the Commonwealth of Pennsylvania from a point near Deposit, New York, to a point near Port Jervis, New York, known as Tristate Rock. From said Tristate Rock southwardly to a point near Chester, Pennsylvania, the Delaware River constitutes the boundary between the State of New Jersey and the Commonwealth of Pennsylvania. Above the Delaware-Pennsylvania State Line, the Delaware River drains an area of 10,444 square miles, of which total 2,389 square miles are within the State of New York, 1,979 square miles are within the State of New Jersey, and the remaining 6,076 square miles are within the Commonwealth of Pennsylvania.

3. Within the territorial limits of the Commonwealth of Pennsylvania there are located in the basin and watershed area of the Delaware River and its Pennsylvania tributaries many cities, towns and villages as well as vast agricultural and industrial areas with a population of approximately 3,615,000.

This great agricultural, industrial and municipal community has shown a substantial and continuous growth over a period of many years and is certain to continue its growth in the future. The waters of the Delaware River and its Pennsylvania tributaries, and the waters of the watersheds of said streams, have supplied in the past and are now supplying the needs of that community and population. It is of vital importance to the continued growth and prosperity of the community that the waters of the Delaware River and its Pennsylvania tributaries shall be available, in adequate quantity and suitable quality, for the future reasonable water needs and requirements of said agricultural, industrial and municipal area and community.

4. The City of Philadelphia, which is the third city in population of the United States, has for many years obtained the major part of its water supply from the Delaware River. The growth of the City of Philadelphia has been rapid and continuous; and as it continues to grow in the future, its population will necessarily depend upon the waters of the Delaware River for its constantly increasing demands for water for domestic, municipal, sanitary; industrial and power purposes.

5. Your petitioner avers that the Commonwealth of Pennsylvania is entitled to its fair and equitable share of the waters of the Delaware River in order to meet and satisfy the present as well as the future reasonable needs of its citizens for domestic, munici-

pal, sanitary, industrial and power purposes. As above averred, the Commonwealth of Pennsylvania, through its citizens and municipalities, is now making use of the waters of the Delaware River. Your petitioner avers that such present use is not in excess of the reasonable needs of its population and community or in violation of the rights of the States of New York and New Jersey. On the contrary, your petitioner avers that such present use by its citizens and municipalities of the waters of the Delaware for domestic and municipal uses, for sanitary uses, for industrial uses, and for the creation of power, is in fact far less than the use of said waters permitted by a fair and equitable allocation between said States. It is of the utmost importance to the Commonwealth of Pennsylvania that its rights in the waters of the Delaware River shall not be infringed by any adjudication in the pending controversy, but that on the contrary, in any such adjudication, the rights of the Commonwealth of Pennsylvania shall be recognized and protected both as to present use and future requirements and as to the fair and equitable division between the States having rights in the waters of the Delaware River, including the Commonwealth of Pennsylvania.

THEREFORE, your petitioner, as *parens patriae*, representing the interest and welfare of all of its citizens who reside in the basin and watershed area of the Delaware River and its several Pennsylvania

tributaries and depend upon the waters of the said river and its tributaries for their present and future reasonable requirements of water for domestic, municipal, sanitary, industrial and power purposes, and in performance of its duty to protect such citizens and their aforesaid property rights, now presents this petition for leave to intervene in the above entitled original proceedings in this Court.

WHEREFORE, your petitioner prays that it may be permitted to intervene herein, that it be permitted to participate in any and all proceedings and hearings before the Special Master upon the reference order of , 1929, offering such evidence as it may consider necessary and/or appropriate and relevant, and that it further be permitted to participate in any proceedings or hearings before this Court upon the report of the Special Master; and for such other and further relief as this honorable Court may deem proper and necessary.

And your petitioner will ever pray, etc.

THE COMMONWEALTH OF PENNSYLVANIA,
PETITIONER,

By

CYRUS E. WOODS,
Attorney General.

OWEN J. ROBERTS,
Special Assistant to the Attorney General.

Solicitors for Petitioner.

UNITED STATES OF AMERICA,
COMMONWEALTH OF PENNSYLVANIA, } *ss:*
COUNTY OF PHILADELPHIA,

CYRUS E. WOODS, being first duly sworn according to law, deposes and says that he is the Attorney General of the Commonwealth of Pennsylvania; that he is duly authorized to make this affidavit on its behalf and now so does; that he has read the above petition for leave to intervene in the above entitled cause to which petition this affidavit is attached, and knows the contents of the said petition; that the allegations thereof, so far as they are within the personal knowledge of affiant, are true and correct, and so far as they are upon information and belief, this affiant verily believes that the same are true and correct.

CYRUS E. WOODS.

Sworn to and subscribed before me this 25th day of November, 1929.

(Signed) ELBERT WILLIAMSON,
Notary Public.

[SEAL]

My Commission expires March 7, 1931.